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April 16, 2004

**VIA FACSIMILE AND U.S. MAIL**

Mr. William Davenport  
Chief  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington D.C. 20554

Re: ***Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer of Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules (CC Docket No. 98-141)***

Dear Mr. Davenport:

SBC requests that the Bureau apply the interpretation granted to Verizon on February 12, 2004,<sup>1</sup> for Condition IV of the *Bell Atlantic/GTE Merger Order*, to SBC/Ameritech Merger Condition VI – Non-discriminatory Rollout of xDSL Services.<sup>2</sup> Specifically, SBC requests that the Bureau issue an interpretation that SBC/Ameritech Merger Condition VI sunset on October 8, 2002, in all states where xDSL service was not deployed in 20 urban or rural wire centers by that date.

**Background**

Verizon's *Bell Atlantic/GTE Merger Order* Condition IV required Verizon to identify in each of its states the 10 percent of urban and 10 percent of rural wire centers that have the greatest number of low-income households (Low Income Pool). It also required that once Verizon had deployed xDSL in at least 20 urban or rural wire centers in a state, at least 10 percent of the urban or rural wire centers must have been in the Low Income Pool. Once the 20 wire center

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<sup>1</sup> See Letter from William Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, to Joseph DiBella, Regulatory Counsel, Verizon Communications, Inc., February 12, 2004 ("Bureau Verizon Letter").

<sup>2</sup> Applications of Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer of Control of Corporations Holding Commission Licenses and Lines Pursuant to Section 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission's Rules, *Memorandum Opinion and Order*, FCC 99-279, Appendix C ¶ 22, CC Docket No. 98-141 (Oct. 8, 1999) ("SBC/Ameritech Merger Order").

threshold was met, Verizon was required to ensure that at least 10 percent of the wire centers deployed were in the Low Income Pool for 36 months. Nothing in the condition required Verizon to deploy xDSL service in any state.

Condition XXIV of the *Bell Atlantic/GTE Merger Order* provides that all of the merger conditions sunset 36 months from the merger closing date unless a condition specifically states otherwise. The merger closed on June 30, 2000. Accordingly, 36 months after closing was June 30, 2003. The *Bell Atlantic/GTE Merger Order* further provides that for those conditions that take effect a certain period of time after the merger closing, obligations under those conditions extend from their effective date for a full 36 months.

On November 14, 2003, Verizon filed a request for interpretation of Condition IV of the *Bell Atlantic/GTE Merger Order*. Specifically, Verizon argued that Condition IV sunset on June 30, 2003, 36 months from the merger closing date, for those states where xDSL service was not deployed in 20 urban or rural wire centers. Verizon noted that in states where it had deployed xDSL service in 20 or more urban or wire centers prior to the 36-month sunset date, the condition had been triggered for that state and the condition requirements applied for 36 months thereafter.

On February 12, 2004, the Bureau granted Verizon's request. The Bureau agreed that Condition IV of the *Bell Atlantic/GTE Merger Order* sunset on June 30, 2003, 36 months from the merger closing date, for all states where xDSL service was not deployed in 20 urban or rural wire centers.

#### SBC's Request for Interpretation

SBC/Ameritech Merger Condition VI, "Non-discriminatory Rollout of xDSL Services," is the same as Verizon's Condition IV. SBC/Ameritech Merger Condition VI requires SBC to identify at least 10 percent of all rural and 10 percent of all urban wire centers to be designated as low-income wire centers in each state. Then, 180 days after the merger closing date of October 8, 1999, once xDSL is deployed in at least 20 urban or rural wire centers in a particular state, and for at least 36 months thereafter, at least 10 percent of the urban or rural wire centers shall be wire centers from the Low Income Urban or Rural Pool.

Likewise, SBC/Ameritech Merger Condition XXIX, "Sunset," is nearly identical to Verizon's Condition XXIV. SBC/Ameritech Merger Condition XXIX states, "all Conditions set out in this Appendix...shall cease to be effective and shall no longer bind SBC/Ameritech in any respect 36 months after the Merger Closing Date." The SBC/Ameritech merger closed on October 8, 1999. Accordingly, the presumptive sunset date of the SBC/Ameritech Merger Conditions was October 8, 2002.

Because the provisions of the *SBC/Ameritech Merger Order* are identical to those of the *Bell Atlantic/GTE Merger Order* in all respects relevant to this issue, SBC respectfully requests that the Bureau issue the same interpretation as to Condition VI of the *SBC/Ameritech Merger Order*. As the Bureau found, it was the Commission's intent in both the *Bell Atlantic/GTE Merger*

*Order* and the *SBC/Ameritech Merger Order* to obligate compliance with the merger conditions “for a finite period of time.”<sup>3</sup>

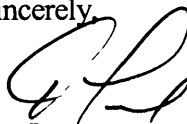
Applying the Bureau’s interpretation and rationale to the *SBC/Ameritech Merger Conditions*, the 36 month requirement specified in Condition VI applies only if it is triggered in an urban or rural category in a state before the end of the 36 month period specified by Condition XXIX, which is October 8, 2002. Thus, in those states where SBC had deployed xDSL service in 20 urban wire centers before October 8, 2002, Condition VI applies with respect to urban wire centers until 36 months after the 20 wire center threshold was reached. For those states where SBC had not deployed xDSL service in 20 urban wire centers by October 8, 2002, Condition VI no longer applies with respect to urban wire centers. Likewise, in those states where SBC had deployed xDSL service in 20 rural wire centers before October 8, 2002, Condition VI applies with respect to rural wire centers until 36 months after the 20 wire center threshold was reached. For those states where SBC had not deployed xDSL service in 20 rural wire centers by October 8, 2002, Condition VI no longer applies with respect to rural wire centers. Again, this is fully consistent with the Bureau’s interpretation of the *Bell Atlantic/GTE Merger Order*.

As of October 8, 2002, there were 11 states in which SBC had not deployed xDSL service in at least 20 rural wire centers, and one state in which SBC had not deployed xDSL service in at least 20 urban wire centers. See Attachment A. Accordingly, *SBC/Ameritech Merger Condition VI* sunset with respect to each of these 11 rural and one urban categories on October 8, 2002. For those states where SBC had deployed xDSL service in 20 urban or 20 rural wire centers before October 8, 2002, the appropriate sunset dates are 36 months from the date xDSL service was deployed in 20 wire centers in the respective urban or rural category. Those sunset dates are listed in the attached schedule also.

For the reasons set forth above, and consistent with the Bureau’s interpretation of the *Bell Atlantic/GTE Merger Order*, SBC requests that the Bureau concur with SBC’s proposed sunset dates for *SBC/Ameritech Merger Order Condition VI*.

If you have any questions concerning this request, please do not hesitate to contact me at (202) 326 8895.

Sincerely,



Jim Lamoureux  
Senior Counsel  
SBC Telecommunications, Inc.

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<sup>3</sup> *Bureau Verizon Letter* at 3.

cc: Mr. Hugh Boyle  
Mr. William Dever  
Mr. Trent Harkrader  
Mr. Dennis Johnson  
Ms. Mika Savir  
Mr. Pete Young

**ATTACHMENT A**

**SBC Communications Inc.  
SBC/Ameritech Merger Conditions  
Condition 6 - Non-discriminatory Rollout of xDSL Services**

**October 8, 2002 Summary**

<b>STATE</b>	<b>URBAN</b>			
	<b>URBAN WIRE CENTERS DEPLOYED</b>	<b>10% TARGET URBAN LOW INCOME DEPLOYED</b>	<b>URBAN LOW INCOME DEPLOYED</b>	<b>Sunset date</b>
ARKANSAS	27	3	4	July-03
CALIFORNIA	292	30	31	April-03
CONNECTICUT	78	8	11	April-03
ILLINOIS	124	13	14	April-03
INDIANA	33	4	5	January-05
KANSAS	33	4	4	April-03
MICHIGAN	98	10	11	April-03
MISSOURI	67	7	7	April-03
NEVADA	7	NA*	1	October-02*
OHIO	95	10	11	April-03
OKLAHOMA	49	5	5	April-03
TEXAS	233	24	25	April-03
WISCONSIN	49	5	6	July-03

	<b>RURAL</b>			
	<b>RURAL WIRE CENTERS DEPLOYED</b>	<b>10% TARGET RURAL LOW INCOME DEPLOYED</b>	<b>RURAL LOW INCOME DEPLOYED</b>	<b>Sunset date</b>
ARKANSAS	9	NA*	3	October-02*
CALIFORNIA	43	4	5	August-03
CONNECTICUT	18	NA*	2	October-02*
ILLINOIS	14	NA*	1	October-02*
INDIANA	8	NA*	0	October-02*
KANSAS	9	NA*	7	October-02*
MICHIGAN	11	NA*	0	October-02*
MISSOURI	2	NA*	1	October-02*
NEVADA	5	NA*	2	October-02*
OHIO	13	NA*	1	October-02*
OKLAHOMA	24	3	9	May-04
TEXAS	16	NA*	5	October-02*
WISCONSIN	9	NA*	2	October-02*

\* The 20 Wire Center threshold for these states/categories was not reached as of October 8, 2002.

Accordingly, per the interpretation requested by SBC, Condition VI sunsets on October 8, 2002 for these states/categories.